

The federal extortion statute, known as the Hobbs Act, prohibits “the obtaining of property from another, with his consent, induced by wrongful use of actual or threatened force, violence, or fear, or under color of official right.”<sup>772</sup> To prove a violation of the statute by a government official, the government must “show that a public official has obtained a payment to which he was not entitled, knowing that the payment was made in return for official acts,” or has attempted or conspired to do so.<sup>773</sup> In the Hudson matter, the evidence would have to be sufficient to show that White House or Interior officials offered or agreed to use their official positions to cause the denial of the application in exchange for campaign contributions, or that they threatened to ensure approval of the Hudson application (over the opponents’ objections) absent an agreement to make campaign contributions.<sup>774</sup> Although courts have held that only a government official can commit extortion under “color of official right,”<sup>775</sup> a private citizen can commit extortion by obtaining property through actual or threatened economic harm.<sup>776</sup> Thus, for DNC officials acting independently of government officials,<sup>777</sup> the evidence would have to

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<sup>772</sup>18 U.S.C. § 1951(b)(2).

<sup>773</sup>*Evans v. United States*, 504 U.S. 255, 268 (1992).

<sup>774</sup>The official can be guilty of extortion even if he or she does not actually have the authority or power to take the official action at issue. It is sufficient if the victim could have reasonably believed that the official had the power. *See, e.g., United States v. Nedza*, 880 F.2d 896, 902 (7<sup>th</sup> Cir.), *cert. denied*, 493 U.S. 938 (1989).

<sup>775</sup>*See United States v. Tomblin*, 46 F.3d 1369, 1383 (5<sup>th</sup> Cir. 1995); *United States v. McClain*, 934 F.2d 822, 831 (7<sup>th</sup> Cir. 1991).

<sup>776</sup>*See, e.g., McClain*, 934 F.2d at 831. Both forms of extortion require proof of a connection between the extortionate conduct and interstate commerce. *See United States v. Stephens*, 964 F.2d 424, 428-29 (5<sup>th</sup> Cir. 1992).

<sup>777</sup>If DNC officials were acting in concert with government officials, they could be subject to charges of conspiracy to commit extortion under the "color of official right" prong, 18  
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